

FILED

JUN 26 2019

Clerk, U.S. District Court
District Of Montana
Great Falls

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KORDELL KYLE BIG KNIFE,

Defendant.

CR 17-79-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Kordell Kyle Big Knife (Big Knife) has been accused of violating the conditions of his supervised release. Big Knife admitted all of the alleged violations. Big Knife's supervised release should be revoked. Big Knife should be placed in custody for 3 months, with 17 months of supervised release to follow. Big Knife should serve his term of custody at the Crossroads Correctional Center in Shelby, Montana. Big Knife should serve the first 60 days of supervised release at Connections Corrections in Butte, Montana.

II. Status

Big Knife pleaded guilty to Assault Resulting in Serious Bodily Injury on February 8, 2019. (Doc. 18). The Court sentenced Big Knife to 8 months of

custody, followed by 2 years of supervised release. (Doc. 27). Big Knife's current term of supervised release began on April 8, 2019. (Doc. 43 at 1).

Petition

The United States Probation Office filed a Petition on May 16, 2019, requesting that the Court revoke Big Knife's supervised release. (Doc. 43). The Petition alleges that Big Knife violated the conditions of his supervised release: 1) by failing to report for substance abuse treatment; and 2) by consuming alcohol. (Doc. 43 at 2-3). United States District Judge Brian Morris issued a warrant for Big Knife's arrest. (Doc. 44).

Initial appearance

Big Knife appeared before the undersigned for his initial appearance on May 22, 2019. Big Knife was represented by counsel. Big Knife stated that he had read the petition and that he understood the allegations. Big Knife waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on June 25, 2019. Big Knife admitted that he had violated the conditions of his supervised release: 1) by failing to report for substance abuse treatment; and 2) by consuming alcohol. The

violations are serious and warrant revocation of Big Knife's supervised release.

Big Knife's violations are Grade C violations. Big Knife's criminal history category is II. Big Knife's underlying offense is a Class D felony. Big Knife could be incarcerated for up to 24 months. Big Knife could be ordered to remain on supervised release for up to 20 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Big Knife's supervised release should be revoked. Big Knife should be incarcerated for 3 months, with 17 months of supervised release to follow. Big Knife should serve his term of custody at the Crossroads Correctional Center in Shelby, Montana. Big Knife should serve the first 60 days of supervised release at Connections Corrections in Butte, Montana. The supervised release conditions imposed previously should be continued. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Big Knife that the above sentence would be recommended to Judge Morris. The Court also informed Big Knife of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Big Knife that Judge Morris would consider a timely

objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Big Knife stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Kordell Kyle Big Knife violated the conditions of his supervised release by failing to report for substance abuse treatment, and by consuming alcohol.

The Court **RECOMMENDS:**

That the District Court revoke Big Knife's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of 3 months, with 17 months of supervised release to follow. Big Knife should serve his term of custody at the Crossroads Correctional Center in Shelby, Montana. Big Knife should serve the first 60 days of supervised release at Connections Corrections in Butte, Montana.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written

objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 26th day of June, 2019.



John Johnston
United States Magistrate Judge